



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - OA(EKM) 2376/2017 filed by Sri. Pradeesh. P.B , Asst. Engineer & others - Order dated 23.10.2017 of the Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.2535/2018/LSGD.

Dated, Thiruvananthapuram, 29/09/2018

- Read:
- 1 Representation dated 09.10.2017 from Sri.Pradeesh. P.B.
 - 2 Order of the Hon'ble Kerala Administrative Tribunal dated 23.10.2017 in OA(EKM) 2376/2017.
 - 3 Letter no.E3/1290/2010/CE/LSGD dated 17.04.2018 from the Chief Engineer, LSGD
 - 4 Letter no.E3/8842/2018/CE/LSGD dated 09.08.2018 from the Chief Engineer, LSGD

ORDER

The Hon' Kerala Administrative Tribunal, as per its order read as 2nd paper above, have disposed of OA(EKM)No. 2376/2017 filed by Sri. Pradeesh. P.B Asst. Engineer & others, directing the first respondent, ie the Govt, to consider and pass appropriate orders on Annexure A4 statutory petition, read as 1st paper above, after affording an opportunity of personal hearing to the applicants, within a period of 3 months from the date of receipt of a copy of the order.

2. The applicants herein are Assistant Engineers in the Local Self Government Engineering Service. They entered in service as overseers and were later deployed and absorbed in the Local Self Government Department. They entered service as diploma holders and acquired degree qualification while in service. It is stated that the claim of the applicants for including them against the degree quota was not considered in the final seniority list of Assistant Engineers in the LSG Department published by the Chief Engineer, LSGD as per proceedings No. E3-1290/2010/CE/LSGD dtd 22.06.2017, but find a place in the seniority list against Diploma quota. Annexure A4 is an appeal petition, under Rule 27 B, Part II, KS &SSR submitted by the applicants against the final seniority list of Asst. Engineer. In the said appeal petition the applicants, who have entered in service as Overseer Gr I, have requested to include them under degree quota in the final seniority list of Asst. Engineer instead of diploma quota, as they have acquired degree in Engineering while in service.

3. In compliance with the above KAT direction, the Under Secretary heard the applicants on 17.04.2018. During the hearing, the applicants contended that in the seniority list of Assistant Engineer (Civil) published by the Chief Engineer (LSGD) on 22.06.2017, their names were included in the Annexure -B, Diploma quota. Their

application for conversion to B.Tech quota has not been considered. Hence they applied for 10% by transfer quota through KPSC and got advice memo and posting order. By that time they got their usual promotion from Overseer Grade I to Assistant Engineer, which is included in the State Service. For that reason their request for by transfer posting as Asst.Engineer, was denied by the department, but their juniors (Overseers-29 Nos.) included in the PSC Rank list were given appointment. Hence they requested to convert them to the B.Tech quota and to include in the Annexure-A seniority list for Degree quota and to reassess the seniority accordingly.

4. The Chief Engineer, LSGD, vide 3rd and 4th paper above, has reported that the applicants were promoted as Asst.Engineers in Diploma Quota and were placed in the final seniority list published. As per the special rules of the department, an Asst.Engineer cannot be included or to be considered in the seniority list of Direct Quota merely on acquiring B.Tech qualification and to incorporate in Annexure A seniority list for Degree Quota. It is permissible only to add the additional qualification (B.Tech) acquired by them, as far as diploma holder is concerned. Meanwhile the degree qualification acquired by the diploma holder can be considered for promotion to the post of Executive Engineer and above as stipulated in the Special Rule (GO(P) No. 271/2007/ LSGD dated 27.11.2017) .

5. The Chief Engineer has also reported that the contention of the applicants that they were not permitted to join duty subsequent to their by transfer appointment as Assistant Engineer by the O/o the Chief Engineer is not true. All the candidate advised by the KPSC were given posting except those who were on "Not Joining Duty"(NJD). The resultant NJD vacancies were reported to the KPSC. The applicants did not approach the Office of the Chief Engineer seeking permission to join service based on the appointment order and raised any complaint in this connection.

6. Para 3 of GO(P) No. 271/2007/ LSGD dated 27.11.2017 (*Special Rules for the Kerala Local Self Government Engineering Service, 2007*) deals with the method of appointment of Assistant Engineers, ie, (i). By direct recruitment and (ii). by transfer from the category of First Grade Overseer in the Kerala Local Self Government Engineering Subordinate Service. Also note 3 to para 3 states that out of the posts for direct recruitment, 10% shall be filled by direct recruitment from among members in the Kerala Local Self Government Engineering Subordinate Service. Accordingly the applicants applied for appointment by transfer through KPSC under 10% quota meant for departmental hands. The applicants came out successful and advised by the PSC. The Chief Engineer is of the stand that the applicants have already been promoted as Asst. Engineers under Diploma Quota; and also that members of the Kerala Local Self Government Engineering Subordinate Service at the time of receipt of posting order only are eligible for by transfer appointment under the said category, though they have not turned up for such appointment.

7. Government have examined the matter in detail. The contention of the applicants that they were denied appointment by transfer as Assistant Engineers is refuted by the report of the Chief Engineer that the incumbents were given appointment order consequent to the advice of KPSC, but they did not approach Chief Engineer for

permission to join as Assistant Engineers in the 10 % by transfer quota earmarked for qualified hands from the Kerala Local Government Sub ordinate Service and thereby join as Assistant Engineers under Degree quota. During the hearing, the applicant has not produced any documentary evidence to prove that they had approached the Chief Engineer for joining duty and the Chief Engineer had refused to admit the applicants. Hence, there has not been any deliberate attempts to curtail the rightful chances of the applicants for promotion as Assistant Engineer under the by transfer quota for Degree holders. There has only been deliberate exercise of choice on the part of the applicants to join duty as Assistant Engineers in the Diploma quota and continue as such. The present request of the petitioners who had availed the benefits of promotion as Assistant Engineers under 'diploma quota' for switch over to the 'Degree quota' in the Seniority list, without calling for such distinction at the time of posting, can only be seen as a belated attempt at protecting and furthering their chances for future promotions. Therefore, in the absence of enabling provisions in the special rules for such a switch over from diploma quota Assistant Engineer to degree quota Assistant Engineer category on acquiring graduation in Engineering, the request of the applicant in the Annexure A4 deserves no merit and is hereby declined.

8. The order of the Hon'ble KAT in OA(EKM) 2376/2017 read as 2nd paper above is complied with accordingly.

(By Order of the Governor)

SREEJITH.V.P

Under Secretary to Govt.

To

- 1 Sri. Pradeesh. P.B, Asst. Engineer (*through the Chief Engineer, LSGD*)
- 2 The Advocate General, Ernakulam (*with Covering Letter*).
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 The Accountant General,(A&E/Audit) of Kerala, Thrissur
- ✓ 5 The Executive Director, Information Kerala Mission.
- 6 The Web & New Media, I & PRD.
- 7 Stock File/Office Copy.

Forwarded/By Order



Section Officer